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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF WASHINGTON**
9 **AT SPOKANE**

10 UNITED STATES OF AMERICA,

11 *Plaintiff,*

12 v.

13 MADDESYN DANIELLE GEORGE,

14 *Defendant.*

No. 2:20-CR-153-RMP

**DEFENDANT'S SENTENCING
MEMORANDUM**

15 The defense respectfully requests that the Court sentence Maddesyn George
16 to 5 years in prison, which is the minimum sentence allowed by law for the drug
17 offense to which she pleaded guilty. The crime of manslaughter has no mandatory
18 minimum. We will address the manslaughter charge first and the drug offense
19 second.
20

21 **1. Manslaughter**

22 Maddesyn George pleaded guilty to voluntary manslaughter. The defense is
23 asking the court to sentence her to 5 years in prison. The sentence should be
24 mitigated below the advisory guideline range because this case is distinguishable
25 from nearly all other similar cases. The man Maddesyn George shot had raped her
26 the night prior, and he was confronting her again.
27

1 Rape is universally recognized as one of the most horrific crimes. “In
2 addition to being a highly offensive invasion of another's bodily integrity, rape
3 violates our most treasured notions of bodily autonomy.” *Kaur v. Wilkinson*, 986
4 F.3d 1216, 1222–23 (9th Cir. 2021). As Justice Powell explained:

5
6 [Rape] is widely viewed as the most atrocious of intrusions upon the privacy
7 and dignity of the victim; never is the crime committed accidentally; rarely
8 can it be said to be unpremeditated; often the victim suffers serious physical
9 injury; the psychological impact can often be as great as the physical
10 consequences; in a real sense, the threat of both types of injury is always
11 present.

12 *Furman v. Georgia*, 408 U.S. 238, 458, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972)
13 (Powell, J., dissenting). The Ninth Circuit has also commented on the terrifying
14 psychological consequences of rape:

15 [A]rticles have described additional long-term psychological effects of
16 rape, including chronic anxiety, nightmares, catastrophic fantasies, feelings
17 of alienation and isolation, sexual dysfunctions, physical distress, mistrust of
18 others, phobias, depression, hostility, and suicidal thoughts. American
19 Medical Association's Council on Scientific Affairs, “Violence against
20 women: relevance for medical practitioners,” *J. Amer. Med. Ass'n.*, June 17,
21 1992. The effects of rape appear to resemble the effects of torture. A recent
22 article compared the psychological sequelae of rape survivors to the
23 psychological distress endured by survivors of abuse constituting torture
24 under international law, and concluded that “the suffering of rape survivors is
25 strikingly similar in intensity and duration to the suffering endured by torture
26 survivors.” Note, “Torture by Means of Rape,” 84 *Georgetown L.J.* 1913,
27 1931 (1996).

28 *Lopez-Galarza v. I.N.S.*, 99 F.3d 954, 962–63 (9th Cir. 1996). It was under this
trauma and psychological distress that Maddesyn George acted when confronted by
Kristopher Graber.

1 Against this pernicious crime of rape, Indian nations are made powerless to
 2 protect their members under the law. The Tribes have no ability to prosecute non-
 3 Tribal members for sexual violence. See *Oliphant v. Suquamish Indian Tribe*, 435
 4 U.S. 191, 195, 98 S. Ct. 1011, 1014, 55 L. Ed. 2d 209 (1978). Rather the federal
 5 government is responsible in our legal system for protecting members of Indian
 6 nations. See generally, *United States v. Sandoval*, 231 U.S. 28, 46, 34 S. Ct. 1, 5, 58
 7 L. Ed. 107 (1913); *United States v. Krause*, 92 F. Supp. 756, 760 (W.D. La. 1950);
 8 *Sioux Nation of Indians v. United States*, 601 F.2d 1157, 1177 (Ct. Cl.
 9 1979), *aff'd*, 448 U.S. 371, 100 S. Ct. 2716, 65 L. Ed. 2d 844 (1980) (“inherent duty
 10 to protect”). The federal government often fails to protect indigenous women by
 11 declining prosecution on serious offenses. The declination rates are 50 percent on
 12 murder and manslaughter, 76 percent on adult sex crimes, including rape.
 13 *Examining Federal Declinations to Prosecute Crimes in Indian Country*, 110th
 14 Cong. 22 (2008), [www.govinfo.gov/content/pkg/CHRG-](http://www.govinfo.gov/content/pkg/CHRG-110shrg46198/html/CHRG-110shrg46198.htm)
 15 [110shrg46198/html/CHRG-110shrg46198.htm](http://www.govinfo.gov/content/pkg/CHRG-110shrg46198/html/CHRG-110shrg46198.htm) at p. 1. The violence against
 16 indigenous women is based on stereotypes and rooted in colonialism according to
 17 expert Valaura Imus-Nahsonhoya.

18
 19 Why seek Natives? We’re associated with fetishes, such as long hair, exotic
 20 looks that sex patrons perceive as Asian or Hispanic, Imus-Nahsonhoya
 21 says.” We could look like anything.” Enslaving Native women for sex or
 22 other purposes isn’t new, either: Imus-Nahsonhoya displayed books and
 23 illustrations showing that the practice has been occurring for centuries.

24 * * *

25 The high rates of poverty and hardship in tribal communities; historical
 26 trauma and culture loss; homelessness and runaway youth; high rates of
 27 involvement with child welfare systems, including entry into the foster care
 28 system; exposure to violence in the home or community; drug and alcohol
 abuse; and low levels of law enforcement all add up to a community rich in
 targets for traffickers.

1 *Why Traffickers Go After Native American Women*, NAVAJO-HOPI OBSERVER,
 2 quoting Valaura Imus-Nahsonhoya from *Hopi Times* interview. Available at
 3 www.freedomunited.org/news/why-traffickers-go-after-native-american-women/

4 Against this backdrop, it is important to look at how the investigation of
 5 Maddesyn George's complaint of rape was handled by the authorities. After
 6 Maddesyn George explained that she was raped by Kristopher Graber, no further
 7 steps were taken to investigate this. It is only by accident that we have a
 8 photograph of the handcuffs bolted to the wall by a bed in Mr. Graber's home.



17 The police inadvertently captured the handcuffs in a long shot of the defendant's
 18 house. No explanation was given to the police as to these handcuffs, and no
 19 questions about the handcuffs were posed to any witness in the 30,000 pages of
 20 discovery in this case. No DNA was taken. No women were asked about prior
 21 sexual assaults. The deceased had a room set up in his home to facilitate rape, and
 22 the government has tried to pretend like it never existed.¹ No explanation has been
 23 given for the government's obstinacy on this. "The United States Attorney is the
 24 representative not of an ordinary party to a controversy, but of a sovereignty whose
 25

26
27 ¹ Additionally, there was evidence that Mr. Graber's friends had tried to remove evidence from this room. See Exhibit
 1

1 *obligation to govern impartially...*” *Berger v. United States*, 295 U.S. 78, 88, 55 S.
 2 Ct. 629, 633, 79 L. Ed. 1314 (1935) (emphasis added). Is it possible that Maddesyn
 3 George is both a flawed individual AND a victim of rape? The government has
 4 never made allowance for such a possibility. The defense would contend that both
 5 are true. But no amount of drug abuse or thievery from Walmart or juvenile court
 6 convictions forfeit a woman’s right to bodily autonomy. Not to Kristopher Graber
 7 and not to Isaiah Holloway. Such a perspective would disqualify from coming
 8 forward a huge swath of women who are actually the most susceptible to being
 9 preyed upon in the first place.

10 We would ask the Court to find what the government has never been willing
 11 to admit: that a preponderance of the evidence exists that Maddesyn George was
 12 raped by Kristopher Graber the night prior to the shooting. This fact doesn’t make
 13 the loss to Mr. Graber’s family any less real, and the subject of the rape will be hard
 14 for the family to hear, but in light of the evidence, it is the only fair conclusion.
 15 Maddesyn George made a credible contemporaneous complaint to the police,
 16 complained of the sexual assault to Shannon Edwards prior to the shooting, and
 17 Maddesyn George’s story is corroborated by physical evidence within Mr. Graber’s
 18 home.

20 **2. Drug Offense**

21 Maddesyn George was found in possession of 47 grams of the drug
 22 methamphetamine. The circumstances of how she came to be in possession of such
 23 a large amount are understood by the court. She did not take possession of the drug
 24 in the regular course of commerce. Nor is it alleged that her involvement with such
 25 an amount was at all typical. July 12th, 2020 was not a representative snapshot of
 26 her day-to-day life. The drugs were possessed for a relatively short period of time.
 27

1 While the drugs were shared with others, there is no evidence that she attempted or
 2 planned to sell the drugs. Maddesyn George's involvement with drugs was ancillary
 3 to Kristopher Graber's involvement in drugs. It is appropriate under the law to
 4 consider the role each person played. See e.g. *United States v. Valdez-Gonzalez*,
 5 957 F.2d 643, 649 (9th Cir. 1992) (upholding a reduced sentence for an individual
 6 who was merely a courier). Enforcement of drug laws in the Omak area has not
 7 been uniform. It is important to note that Kristopher Graber was caught in October
 8 2019 with three times the amount of drugs Maddesyn possessed (and a firearm),
 9 and he was not prosecuted federally. See Exhibit 2 which consist of the probable
 10 cause affidavit from his offense in Okanogan County Superior Court.

11 Admittedly, "[i]n our criminal justice system, the Government retains 'broad
 12 discretion' as to whom to prosecute." *Wayte v. United States*, 470 U.S. 598, 105
 13 S.Ct. 1524, 84 L.Ed.2d 547 (1985) (citing *United States v. Goodwin*, 457 U.S. 368,
 14 380 n. 11, 102 S.Ct. 2485, 2492 n. 11, 73 L.Ed.2d 74 (1982)),

15 As to the restitution owed to Mr. Graber's family, the defense does not have
 16 any objection. The defense would respectfully request that the court recommend to
 17 the Bureau of Prison a drug treatment program during her incarceration.

18 Additionally, the defense agrees with the government that substantial probation is
 19 appropriate to facilitate Maddesyn George's reentry into society.

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 21
 22 DATED this 13th day of October, 2021

23
 24 s/ Stephen T. Graham
 25 Stephen T. Graham, WSBA #25403
 26 Attorney for the Defendant
 27 Law Office of Steve Graham

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CERTIFICATE OF SERVICE

I hereby certify that on October 13th, 2021, I electronically filed the Defendant’s Sentencing Memorandum with the Clerk of the Court using CM/ECF System which will send notification of such filing to the following: Alison Gregoire, Assistant United States Attorney, and Richard Barker, Assistant United States Attorney.

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